SPECIAL CALL FIRE PENSION BOARD MINUTES
Thursday, February 24, 2022 3:00 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Charles Zokvic, Chairman; Henry Losey, Secretary/Treasurer; Member: Kent Middleton **Also Present**: Board Attorney Adam Levinsen (attended via GoToMeeting) and Heather McCarty, Records Retention Specialist

1. CALL TO ORDER

Today's meeting was called to order at 3:02 p.m.

2. DISCUSSION ITEMS

A) Review of Fire Pension Plan
B) Fresh Start IRS Program

Mr. Zokvic said the purpose of this meeting is to go over the Plan and have a discussion about where they are at and their options.

Mr. Adam Levinsen, of Klausner and Kauffman, explained with a Share Plan, some of the money coming in from Tallahassee is used to offset the City's contribution and some is shared between the members. He pointed out that they have the Share Plan, but it is not currently being funded. He read from Section 58-81, Share Plan. He noted that the special benefit threshold is $306,972. He said the concern is that Tallahassee is going to see that the funding of the Plan exceeded 100%, which is very good news, and turn off the State money. He said his office's opinion is that Tallahassee doesn't care and won't say anything and if they were to say something, they would point out that they have a Share Plan. He stated his office's position is to let sleeping dogs lie and leave Tallahassee alone and they will leave you alone.

Mr. Jeff Amrose, with GRS Consulting, said he wants to see the City get the State money, however it is used, whether as a cushion to avoid City contributions in the future, or allocate amongst the retirees. He read from Chapter 175 about how the money will be shut off when fully funded and will resume once it falls below 100%. He said this Plan does have a Share Plan, but he can't say for sure whether that will have an impact on whether the money is shut off. If they want to ask the State, they could get their answer. Either way they are going to find out. He said it could take them a few years down the road until they do. If they continue to get State money, he is all for it, however it is used. He said Mr. Levinsen is right that this is a great issue to be faced with. He said it comes down to what do the parties want to do regarding the excess funding that's in the Plan.

Ms. Lawson commented that if there is a way that they can still be entitled to get the money, then sure. And if they want to recommend to the City Council that their benefits be increased in some way, that is their prerogative and City Council's decision. What she wanted to make clear is that she is not comfortable with letting sleeping dogs lie or the let's see what happens and see if they figure out they don't owe them money approach. She reminded them that the City receives the check and the Mayor has to sign it acknowledging receipt. She has five (5) days to deposit it, which is not going to be enough time to get the answer to if they are entitled to that money under State law. She cannot deposit the funds or ask the Mayor to sign the check if State law is clear they are not entitled to them. She added when the State realizes they gave them money by mistake, it cannot be taken out of the Plan once deposited and would have to come out of the City's money and the taxpayers' pockets.

Ms. Lawson said they need to get out in front of this and have the conversation with the State. She cannot take the approach of waiting until they see if they get money, and if they do, just deposit it. She said she would have to have this conversation with the City Attorney. She would rather see them move forward together and figure out a way to resolve this.

Mr. Levinsen explained their City is different because they have a dollar threshold in their Share Plan and money is not yet going into the Share Plan because they are not at the $306,000 threshold. He understands the City doesn't want to wait and see and said there are two (2) ways to be proactive. They could authorize them to reach out to the Division anonymously or reach out to them and tell them who they are. He stated that if they were to receive the check, they are absolutely convinced that the State made the determination that they are entitled to it. He said if you get the check, they've made the decision that it is Vero money, they are paying it to the Plan, and you have to deposit it.

Ms. Lawson respectively disagreed. She cannot say for a fact if they send them a check it means that they made the decision they deserve the money. She really likes the idea of reaching out proactively. She said anonymously is fine, as long as it gives them back something in writing. She added that if there is confusion surrounding this for the next year or so, at least they can say they tried to do their due diligence. She cannot deposit it without some kind of assurance that they are not taking money that they are not entitled to under State law and in good conscience allow her Mayor to sign it.

Mr. Zokvic asked if either of them know of any city that has lost their premium tax money when they become 100% funded. Mr. Amrose answered no. He explained that this is not a common situation and that most plans are not at this level or have been at this level.

Mr. Amrose said if this Board wants to bring before the City Council a proposal regarding benefit enhancements, the decision of Council may differ depending on whether they are going to continue to receive State money.

Mr. Levinsen said the answer to the Chairman's question is yes. He said they have clients where because they have a share plan, they've made the argument that the money is promised to the members of the share plan and they should be left alone. He said it is perverse to say that because the plan hits 100%, the money should be shut off. He said he is not concerned that they are going to turn off the money; it is their strong position that it's your money and you're entitled to deposit the check. He wants to go in to some options and focus on some of the ways they could start putting money in their Share Plan and pay money to members.

Mr. Zokvic said part of the problem seeing through this is they keep hearing they had a great 12 years of investment returns, but they are still $1.375 million unfunded.

Mr. Amrose explained that the $1.375 million is not unfunded, but rather a cumulative gain/loss position since that provision was put into place.

Mr. Zokvic commented that the five (5) year smoothing method is supposed to take the roughness out. He said it has been downhill ever since they received the second 13th check. Then the State put the Share Plan on them with the $306,000 top and the $163,000 bottom on it, which will be hard for this Plan to reach.

Mr. Amrose agreed that getting above the $306,000 is going to be very hard. He explained the history of the $306,000 being the amount of State money that was received in 2002.

Ms. Lawson wanted to point out that until this year, the Plan was in an unfunded position that required the City to put in up to as much as $150,000 of City funds for a required contribution. She said this is the very first time that there is enough money from the State to reduce the City's contribution to zero. She added that since 2010, it has been a total of $816,000 of City money that has gone into the plan.

Mr. Middleton questioned not getting any more 13th checks now that they are totally funded. Mr. Amrose explained that each year, there's either a gain or a loss and it is cumulative from the year the provision was put in place, which was 2005. He said they have had good years recently, but they haven't been enough to offset the very substantial losses around 2008 and 2009.

Mr. Levinsen wanted to walk them through some scenarios. He said after they hear the five (5) options, they could pick one (1) or they could authorize him and Mr. Amrose to get with the Finance Director and others in City management to discuss the options. He said the goal is to allocate money to preserve the receipt of money and to avoid Tallahassee turning off the money.

Mr. Zokvic referred to page 11 in the Valuation, Liquidation of the Unfunded Actuarial Accrued Liability. Mr. Amrose reviewed the chart, UAAL Amortization Period and Payments – After Fresh Start. He explained that Fresh Start is not fresh starting the assets, but is fresh starting the amortization payments over eight (8) years.

Mr. Levinsen asked what does the Fresh Start accomplish in connection with the discussion they are having and does it solve the problem.

Mr. Amrose answered no. He explained that the Fresh Start on page 11 is on the surface and doesn't really change anything and the only goal is that they don't have a negative unfunded and positive payments on that. He added the other Fresh Start they talked about at the last meeting could come in handy for this plan.

Mr. Levinsen said in regards to the Fresh Start conversation, they can look at that later but it doesn't address the issue they are focused on today.

Mr. Levinsen said option one (1) is remove the $306,972 threshold in the Ordinance and have it say that all premium tax money will go into the Share Plan after all the City contributions have been paid. He said option two (2) is a little more conservative from the City's perspective. It is to remove the $306,972 threshold and replace it with a lower threshold of maybe $150,000 and say, same as option one (1), that all the money goes into the Share Plan after all City contributions have been paid.

Mr. Amrose commented that they may want to consider a lower threshold.

Ms. Lawson asked where the $306,972 came from. Mr. Levinsen explained that is basically what the default was under the State law, but they can always change it. He pointed out there is no obligation to have the threshold at all. He explained the threshold exists if the Union and the City cannot agree on what number they want to use.

M. Levinsen said option three (3) is an ad hoc benefit, which means it varies from year to year. He explained the ad hoc benefit would be paid to the members through the Share Plan for all funding over 100% after the City's contribution has been fully paid.

Mr. Amrose commented that it seems that under that option, since the plan is 12% over funded, which equates to $885,000 and that would be split up and paid to the members. He pointed out that would eat into the surplus situation they have. Mr. Levinsen agreed that option would be very generous to the members, but the City may not like it.

Ms. Lawson wanted to clarify in this case, the $885,000 would go into the Share Plan to be split amongst the members. Mr. Amrose said that $15,000 of that would go for the City's contribution and then the rest, $870,000, would go into the Share Plan to split amongst the retirees. Mr. Levinsen said that is correct, if that is the ad hoc benefit selected.

Ms. Lawson wanted to point out that she is here to understand the options and not to discuss the pros and cons or give her opinion.

Mr. Zokvic referred to the $25,000 maximum amount on the 13th check and asked if there are any confines in the Share Plan. Mr. Levinsen answered that is a plan design question and they can put in whatever limitations they want related to that ad hoc benefit.

Mr. Levinsen said option four (4) is similar to option three (3). It is an ad hoc benefit of premium taxes above 110% funded, for example, so you preserve a cushion, or guardrails. He said they have been able to do that with other cities and maintain a cushion and Tallahassee has left them alone.

Mr. Zokvic asked if the percentage would be a negotiation point, whether it is 110% or 105%. Mr. Amrose answered yes. He added that it is hard to say what is going to happen with that negotiation unless they know what is going to happen with the State money.

Mr. Levinsen talked about option five (5), which is the most flexible. He said it is an actuarially determined benefit. He explained it could be an actuarially funded COLA or a supplemental benefit payment of $1,000, for example, but it would be actuarially determined. He added that if the funded ratio drops below 100%, they could turn it off. It would be an actuarially determined benefit with a shut off if the funding falls enough where the premium tax money isn't enough to keep the City contribution at zero.

Ms. Lawson commented that those benefits would go down again if from an actuarial standpoint they had a few bad years and went below 100%.

Mr. Levinsen pointed out this would not be an accrued benefit and it would be made clear in the Ordinance that the benefits in all the scenarios would depend upon future circumstances. He said they do not want to give the expectation that they are going to get a windfall in any particular year.

Mr. Losey commented that people came to expect the 13th check.

Mr. Zokvic said if they had to spend $870,000 this year to solve this, it would be like dynamite going off.

Mr. Amrose said that is the case in some of the options, but not all of them. He explained option two (2) is just lowering the threshold from $306,000 to something like $150,000. If that was done right now, the retirees would share $13,000, which is the amount over $150,000. He said option 1 is to remove the threshold and the retirees and the City share the $160,000 50-50.

Mr. Zokvic asked if he could rank actuarially which was the best option for the Fund and with the best chance of being approved.

Mr. Amrose felt the one (1) with the least amount of risk to the City is option two (2), lowering the threshold, and any time the State money is over the threshold, that goes to the members. He explained the other scenarios do have a lot of risk to the City because if they use the $885,000 surplus, then in a bad year, the City could need to make a contribution. He said if there was still going to be $160,000 coming in every year, the City maybe more open to using a bigger portion of the surplus.

Mr. Zokvic asked if they moved the threshold down to $100,000, is there a range that is more actuarially better for the Plan and the City.

Mr. Amrose answered if they lower it to $100,000, with $160,000, $60,000 would be given to the members. There is a small increased risk to the City of Vero Beach coming out of the surplus position and eventually having to pay a required contribution.

Mrs. Lawson noted that in the last 12 years, their contribution has ranged up to $150,000. She said the first two (2) options don't change the funded position of the plan. They just are if State money comes in and the City doesn't need it, then they share it. She said the other ones seem to be finding a way to artificially manipulate the over funded pension plan back down to 100%. She added that even a cushion of $885,000 can be erased fairly swiftly.

Ms. Lawson wanted to point out that there is no version of any of these that could be passed in time for the deadlines for submitting reports to the state by March 15th. She asked if they are suggesting they proceed with the Valuation as presented and then proceed with discussions of what recommendations they want to make to City Council that might have an effect on next year.

Mr. Levinsen commented that the March 15th deadline is, in his view an arbitrary deadline and he is not concerned about it. He went back to his original position which is if they cut them a check, they have agreed that they've approved it for you. He said it is money that has to be deposited in to the Plan and they won't come back asking for money from the Plan. He said his office is very comfortable that if they get a check in August, they deposit it.

Ms. Lawson said March 15th is a compliance deadline and she disagreed that the City is going to take the approach that if they get the check, just deposit it and assume it belongs to them. She said they need to decide what they are doing right now with the Valuation and then talk about how they can work together to proactively get an answer from the State, even if it is anonymous.

Mr. Levinsen talked about the inflationary environment and how everything has gone up. He pointed out there are a lot of other plans in Florida that have had COLA's and increases in benefits.

Ms. Lawson said those are discussions they can have over the next few months. With the compliance reporting deadlines, they need to accept this Valuation as it sits. It was already accepted once and she needs to make sure it will not be manipulated.

Mr. Zokvic said he doesn't plan on going back on the Valuation acceptance. He added they are not going to make any changes this year.

Ms. Lawson wanted to confirm that she could rely on this Valuation and they can submit their reports to the State. Mr. Zokvic answered that is correct. Mr. Amrose added he is fine with that decision.

Mr. Levinsen commented they could always revise it after it's been submitted.

Ms. Lawson said she cannot revise her audited financial statements at some point in the year because this Valuation gets revised.

Mr. Zokvic stated that last week the Board voted to approve it and he is not re-nigging on his vote. He told her to do what she needs to do because they are not going to get anything passed in the near future.

Mr. Zokvic asked if they want to set up a conversation with the State. Mr. Amrose answered yes, he thinks that is the first thing that needs to happen so they can move forward making a better decision on which of the options are the most viable. He suggested it be himself, Mr. Levinsen, Ms. Lawson, and whoever wants to be involved in that conversation about the state money.

Ms. Lawson wanted to listen in. She emphasized the answer to if that money keeps flowing will definitely have an impact on their decision making. She asked for them to include the City Attorney and asked for permission to have him speak with Mr. Levinsen and be a part of the conversation with the State. Mr. Zokvic said yes.

Mr. Middleton asked Mr. Levinsen which option he feels would be best for this Board.

Mr. Levinsen said there is no right answer because it depends on what the goals are and also, it is going to be a City decision. He re-summarized the five (5) options again for them.

Ms. Lawson reiterated that she doesn't consider being overfunded as a problem that needs to be solved. She said that cushion has some good reasons to be there. She felt the first two (2) options if the State does agree they can still have the money because it goes into the Share Plan, those are simple.

Mr. Losey questioned if they have a share plan and it is not funded, why even have it. He felt that options four (4) and five (5) would not fly with the City.

Mr. Zokvic said right now they need to give permission for them to anonymously contact the State and find out about premium tax money because nothing is going anywhere until they know that.

Ms. Lawson asked them to make the motion but not to restrict it to anonymous.

Mr. Losey made a motion to give the Finance Director, the City Attorney, the Board Attorney and the Actuary the leeway to move forward with a discussion with the State about what is going to happen with premium tax money. Mr. Middleton seconded the motion and it passed unanimously.

3. PUBLIC COMMENTS

None

4. ADJOURNMENT

Today's meeting was adjourned at 4:35 p.m.

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